

UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

Before Commissioners: Edward J. Gleiman, Chairman;  
George W. Haley, Vice Chairman;  
W.H. "Trey" LeBlanc III, H. Edward Quick, Jr.  
and George A. Omas

Postal Rate and Fee Changes

Docket No. R97-1

NOTICE OF INQUIRY NO. 1  
ON INTERPRETATION OF COMMISSION RULES AUTHORIZING  
THE USE OF LIBRARY REFERENCES

(September 17, 1997)

Commission rules authorize the use of library references as a convenience to participants. The rules specifically note that this tool can be used for material "too voluminous" to distribute, or to facilitate reference to documents. See Rule 31 and Special Rule of Practice No. 5.

In the past, the Commission has allowed the Postal Service and other participants in our proceedings to identify material as library references at their discretion. Based on widespread compliance with the rules and the practicalities of rate case processing, the Commission has not required a threshold showing of the appropriateness of the label prior to accepting material identified as a library reference in its docket room, nor has it conducted an independent inquiry along these lines.

However, motion practice initiated collectively by Nashua Photo Inc., District Photo Inc., Mystic Color Lab and Seattle Filmworks, Inc. (NDMS) has led to a conclusion that certain material the Postal Service has filed in this case does not qualify as a library reference within the meaning of the Commission's rules. See P.O. Ruling

No. R97-1/20 (September 17, 1997), addressing the status of USPS-LR-H-112.<sup>1</sup> The motion practice also raises related questions of sponsorship of the material, the timing of such sponsorship, and the appropriateness of "institutional responses" to interrogatories related to material in a library reference.

A reading of the Service's filings on the NDMS motions indicates that it interprets the Commission's authorization of the use of library references as broader license for a "litigation strategy" that effectively insulates key material supporting several of its proposals from the standard process to which other evidence is subject. The Commission agrees with the Presiding Officer's conclusion that this interpretation is erroneous.

Since this type of mischaracterization may not be limited to the instances cited in the NDMS motions, all participants are invited to address the questions set out at the end of this notice. Participants are also invited to submit memoranda addressing the legal ramifications raised by the Service's interpretation of the Commission's rules on this matter. Comments and/or memoranda addressing the questions listed below, related concerns, or legal issues should be filed by October 3, 1997.


1. Has the Service filed other material in this case as a library reference that does not appear to qualify for that designation under a reasonable interpretation of applicable Commission rules?
2. If the answer to No. 1 is affirmative,
  - a. what numerical designation and title has the Service assigned the material; and
  - b. to what specific proposal does it relate?

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<sup>1</sup> See August 22, 1997 NDMS Motion to Compel Response of United States Postal Service Witness David R. Fronk to NDMS/USPS-T32-16 [a-c]; August 29, 1997 NDMS Motion to Strike [Specified Portion of] Testimony of Postal Service David R. Fronk (USPS-T32); and August 29, 1997 NDMS Motion to Compel Response from of United States Postal Service Witness Charles L. Crum to NDMS/USPS-T28-19(a)-(d) and (f)-(g) and related Postal Service filings.

3. Are any revisions to the Commission's rules needed to address practices that have evolved with respect to library references?

By the Commission.  
(S E A L)

  
Margaret P. Crenshaw  
Secretary